

Notice of Allowability

Application No.

10/623,239

Examiner

Blessing M. Fubara

Applicant(s)

FITZHUGH ET AL.

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to telephonic interview held on 12/05/06.
2. ☒ The allowed claim(s) is/are 14-26 (claims are renumbered).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>12/05/06</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michelle Glasky on 12/05/06.

The application has been amended as follows: Amendment to the specification and the claims.

Amendment to the Specification:

On page 20 of the original specification, at the last line of paragraph [0044], after "description." insert --- In one embodiment, the microbeads have pores ranging in size from approximately 5 to 500,000 angstrom. In another embodiment, the amorphous masses have pores ranging in size from approximately 5 to 500,000 angstrom.---

Amendment to the claims:

In the claims

- A. Claims 1-13 Canceled
- B. Claims 33-49 Canceled
- C. i) In Claims 21, 24, after claims in line 3, delete "1, 2, 3, 4, 5, 6, 7, 8 and after 19, change "or" to —and—

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- ii) In claims 22, 23, 25 and 26, after claims in line 7, delete “1, 2, 3, 4, 5, 6, 7, 8 and after 19, change “or” to —and—
- D. In claims 23 and 26, in line 3 after device, delete “coating”
- E. In claim 14, in the section beginning with “wherein,” in the line directly below the “wherein” containing line, after “divinylbenzene” insert a ---comma---
- F. i) In claims 17-19, line 2, change “14” to ---15---
- ii) In claim 18, line 2, change “14” to ---16---

Allowable Subject Matter

2. The following is an examiner’s statement of reasons for allowance: Claims 13-26 are allowable as amended because the closest prior art to Pulfer et al. (Incorporation of nitric oxide-releasing crosslinked polyethyleneimine microspheres into vascular grafts, **Journal Of Biomedical Materials Research** Volume 37, Issue 2 , November 1997, Pages 182-189) discloses a bis-epoxide cross-linked polymer that swells (70% without the NO (i.e. PEIX) and 100% with the NO (i.e. PEIX/NO) (page 184, right column, under the RESULTS) while the claimed polymer is cross-linked with divinylbenzene ([0061]) that yields highly crosslinked polymer that does not swell.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

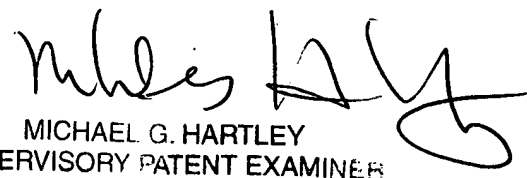
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 5:30 p.m. (Monday to Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Blessing Fubara
Patent Examiner
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MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER